



BOARD OF SUPERVISORS

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COUNTY OF LOS ANGELES DEPARTMENT OF CONSUMER AND BUSINESS AFFAIRS

"To Enrich Lives Through Effective and Caring Service"



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April 10, 2020

To: Supervisor Kathryn Barger, Chair
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From: Joseph M. Nicchitta
Director

REPORT ON RECOMMENDED UPDATES TO THE COUNTY'S EXECUTIVE ORDER APPROVED ON MARCH 19, 2020, RELATED TO A TEMPORARY MORATORIUM ON EVICTIONS IN UNINCORPORATED AREAS (ITEM NO. 15, AGENDA OF MARCH 31, 2020)

On March 31, 2020, your Board directed County Counsel and the Chief Executive Officer (CEO), in consultation with the Department of Consumer and Business Affairs (DCBA), the Workforce Development, Aging and Community Services Department (WDACS), the Los Angeles County Development Authority (LACDA), the Department of Public Health (DPH), and all other relevant County Departments, to report back within seven days with recommended updates to the County's Executive Order approved on March 19, 2020, related to a temporary moratorium on evictions in unincorporated areas of the County. Furthermore, the Board directed the CEO, in consultation with DCBA, WDACS, LACDA, DPH, and other relevant County Departments, to provide additional recommendations and resources, as appropriate, to improve protections for tenants, workers, unhoused individuals, landlords, and businesses of Los Angeles County during the COVID-19 pandemic.

DCBA submits this report on behalf of the working group, as DCBA has led the development and implementation of your Board's recent rent stabilization and tenant protection initiatives.

DCBA conducted research on eviction moratoria enacted by jurisdictions in the region and across the State, and engaged with and obtained feedback from local tenant advocacy groups and property owner associations. Based on this research and consistent

with your Board's March 31st directives, and in collaboration with County Counsel, the CEO, and partner departments, DCBA identified the following options to provide additional protections to tenants and small businesses.

In addition, on April 6, 2020, while the involved County departments were performing research and preparing this report back, the California Judicial Council, the policymaking body of the California courts, issued 11 temporary emergency measures (Emergency Rules). Judicial Council Emergency Rule 1 prohibits a court from issuing a summons and complaint for new unlawful detainer cases, with limited exceptions, and requires courts to continue trials for existing cases. These rules are in effect until 90 days after the Governor's declaration of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

The proposed recommendations below, along with the safeguards implemented by the Emergency Rules, will ensure tenants who are unable to pay rent due to COVID-19 will not be displaced or evicted. The proposed recommendations below would also clarify applicable rules so that landlords and tenants clearly understand their rights and obligations under the order, and would create a uniform set of rules countywide, including in cities, while allowing cities with their own eviction moratoria to continue to enforce them.

Proposed Amendments to the March 19, 2020 Executive Order

1. Add a directive that expands the eviction moratorium to all jurisdictions within L.A. County, except for those local jurisdictions that have their own local moratoria

There are numerous incorporated jurisdictions within the County that have yet to adopt their own eviction moratoria, which is causing confusion amongst tenants, landlords, and businesses in those areas regarding the applicability of moratorium provisions passed at the State and County level. In addition, the County has enacted protections for tenants and businesses in unincorporated areas that build upon those issued by the Governor via his executive orders. To ensure alignment of eviction moratorium provisions across the entire County and to extend additional tenant and business protections enacted by the Board for tenants in unincorporated areas of the County, your Board could extend your eviction moratorium to include all cities within the County except those that have their own local moratoria.

DCBA consulted with County Counsel on whether the County has the authority to expand the moratorium in this manner and counsel has opined that the County would be within its powers to extend the moratorium to the entire County pursuant to Government Code section 8634, Attorney General Opinion 79-7910, and County Code, Chapter 2.68.

2. Amend Paragraph I.e. to extend the repayment period to 12-months for tenants owing back-rent

Currently, your Board's eviction moratorium allows tenants up to six months to pay back any unpaid rent owed during the moratorium period. Tenant advocate groups argue that six months is insufficient time for tenants to pay all back rent due because of severe economic challenges that are expected to persist after the COVID-19 health pandemic is controlled. Many tenants are facing unemployment, reduced hours, or substantial reductions in income. It may take many months and even years for these tenants to fully recover.

For example, the Healthy L.A. Coalition, a coalition comprised of a network of over 260 advocacy organizations, worker centers, labor unions, service providers, religious congregations, community groups, affordable housing developers, public interest lawyers, and public health and safety organizations, is recommending that local jurisdictions extend their repayment periods to 24 months. The City of Los Angeles recently extended its repayment period from 6 to 12-months: <https://hcidla.lacity.org/covid-19-eviction-moratorium>.

At the same time, the County has received correspondence from the California Apartment Association (CAA) and the Marina del Rey Lessees Association advocating for a six-month repayment period, including payment plans for those tenants able to pay some portion of their rent during the emergency. There is concern from property owner groups that extending the repayment period beyond six months would extend tenant obligations to landlords beyond agreed upon lease periods and would create challenges for landlords seeking to collect on these obligations if tenants no longer reside on the property. CAA acknowledges the difficulties tenants will be facing, but argues that many landlords, especially mom-and-pops, will be unable to absorb the financial burden of not collecting back-owed rent for a full year.

The question of how long to allow tenants to repay back-owed rent is a difficult one, considering the varying interests and the uncertain projections about lasting economic impacts from COVID-19. Given that your Board has prioritized tenant protections and preventing displacement that in some cases leads to homelessness, an appropriate compromise between tenant advocates and property owners would be to extend the repayment period for tenants who are able to establish an economic hardship related to COVID-19 to 12 months, from six months. This will allow tenants additional time to stabilize following the termination of the COVID-19 emergency.

Recognizing the challenges many landlords will face, DCBA stands ready to assist landlords in identifying emergency federal aid for which they qualify as small businesses. DCBA is also taking steps to expand its foreclosure prevention

program, currently available only to homeowners, to small landlords. DCBA expects this service to be available to small landlords in the next seven to 14 days.

3. Amend Paragraph I.a. to: 1) clarify that tenants can provide their landlord with a self-certification that outlines their inability to pay rent due to a COVID-19 related reason to comply with the seven-day notice requirement; and 2) clearly state that landlords cannot impose their own notice requirements (i.e. dictate the manner in which the tenant must notify them of their inability to pay rent) or specify the type of supporting documentation that must be provided to corroborate their notice and inability to pay rent due to a COVID-19 related reason.

The County's executive order does not require tenants to notify a landlord in writing of an inability to pay due to economic hardship from COVID-19. The executive order simply requires that tenants notify their landlords of this fact within seven days of missing their rental payment, unless extenuating circumstances exist.

In considering the appropriate implementation of this provision, your Board may require that a tenant follow up within 30 days of providing the notice, or at the earliest practicable time for those who are ill with COVID-19 or caring for someone who is ill from COVID-19, with a written self-certification establishing an inability to pay all or some portion of the rent. Written notice can include, but is not limited to, letter, email, or text message. To avoid confusion and disparate requirements being imposed on tenants, your Board may specify that a landlord may not impose additional or different notice requirements other than those provided in the executive order. Should your Board allow tenants to make a self-certification, DCBA will create a standard form self-certification for use by tenants and landlords.

DCBA consulted with County Counsel on the question of whether tenants can provide a self-certification to comply with the notification requirement outlined in the current executive order and County Counsel opined that self-certification can be used to comply with this requirement.

4. Amend Paragraph I.b. to add to the definition of "financial impact" to include loss of business revenue for commercial tenants.

The current definition of financial impact only speaks to loss of income for residential tenants. Because the County's Executive Order also imposes an eviction moratorium on commercial tenancies, your Board should amend the Executive Order to define "financial impact" as including loss of business income or revenue for commercial tenants.

5. Amend Paragraph I.e. to include language that provides landlords with the flexibility to accept partial rent payments during the moratorium if tenants can make such payments

Property owner groups are requesting that the County encourage tenants who are able to make partial rental payments during the moratorium to do so, to defray the financial burden borne by landlords. Property owner groups are additionally requesting that the County provide tenants with guidelines that encourage tenants to pay their rent, either in full or in parts if they are able, to help support landlords, particularly mom-and-pop landlords, that will be severely impacted by the loss of rental revenue during the COVID-19 emergency.

Recognizing the effect of missed rent payments on property owners' ability to pay their mortgages and other related business expenses, your Board may consider amending the County's Executive Order to provide that tenants who are able should continue to pay rent on time, or to arrange alternate or partial payment arrangements with their landlords. However, your Board should clarify in your Executive Order that a landlord may not demand partial payment or impose a payment plan on tenants, provided tenants notify their landlord that they are unable to pay any amount of rent, and otherwise meet the requirements of the County's Executive Order.

6. Amend Paragraph I to prohibit the accrual of interest or late fees for missed rent payments during the eviction moratorium and repayment period, and bar landlords from attempting to collect such interest or late fees after the end of the repayment period.

The central tenet of the County's eviction moratorium is to provide relief to tenants and businesses that are experiencing financial hardships due to the COVID-19 emergency. Allowing the imposition and collection of late fees by landlords during and after the emergency period is inconsistent with the intention of the moratorium.

7. Amend Paragraph I to prohibit certain types of just cause evictions during the emergency period arising from circumstances related to the COVID-19 pandemic: unauthorized tenants/occupants; unauthorized pets; and nuisance.

Tenant advocates recommend expanding the County's eviction moratorium protections to cover tenants that may be in violation of their lease agreements due to COVID-19 related reasons, such as temporarily housing unauthorized occupants and/or pets or causing a nuisance related to the housing of unauthorized occupants. Extending eviction protections to these circumstances would close existing loopholes and ensure that tenants reacting to COVID-19 are not unduly displaced.

For these reasons, your Board may extend the County's moratorium eviction protections to tenants facing just cause evictions stemming from COVID-19 not currently covered by the County's Executive Order. The City of Los Angeles adopted a similar provision for its moratorium on March 27, 2020.

This amendment would not prevent a landlord from evicting a tenant for a legitimate health or safety reason.

8. *Add a directive that extends the County's eviction moratorium protections to space renters living in mobilehome parks in all parts of the County, except for those living in jurisdictions with their own local eviction moratoria.*

On March 19, 2020, your Board enacted eviction protections for tenants of residential and commercial properties facing financial impacts due to COVID-19, but did not explicitly extend those protections to space renters living in mobilehome parks. The intent of the March 19th Executive Order was to prevent displacement of all types, which should include mobilehome owners in short and long-term space rental agreements.

We therefore recommend that your Board amend the Executive Order to explicitly state that these eviction protections extend to mobilehome parks and their occupants.

9. *Add a directive that references the temporary rent freeze approved by your Board on March 31, 2020, and extend the rent freeze to space renters living in mobilehome parks in all parts of the County covered by Chapter 8.57 of the County Code.*

On March 31, 2020, your Board voted to amend the Executive Order to include a ban on rent increases for units covered by the County's Rent Stabilization Ordinance, as provided in Chapter 8.52 of the Los Angeles County Code.

It is recommended your Board expand these protections to include a ban on space rent increases for Mobilehome Owners, to the fullest extent allowable under State law and Los Angeles County Code Chapter 8.57. This ensures that the rent freeze is incorporated into the Executive Order and that it applies to all eligible space renters living in mobilehomes across the County, which include space renters with lease terms of 12 months or less.

10. Add a recital, directive, or general statement into the Executive Order, similar to what other jurisdictions have included in their emergency proclamations, that recognizes revenue and property losses resulting from the COVID-19 pandemic and government-ordered closures of non-essential businesses for public health and safety reasons.

Many County businesses are suffering economic injury due to government orders designed to slow the spread of the novel coronavirus. DCBA recommends recognizing this fact expressly in the County's Executive Order. Such recognition clearly and accurately reflects the conditions facing businesses in the County, and will facilitate businesses as they seek to recover losses through their business interruption insurance policies. Below is suggested language:

Whereas, it is the public policy and intent of the County that closing certain businesses is for the public welfare, good, and benefit and the County recognizes that the interruption of any business will cause loss of and damage to business. Therefore, the County finds and declares that the closure of these businesses is mandated for the public welfare and good and that the physical loss of and damage to businesses is resulting from the shutdown and that these businesses have lost the use of their property and are not functioning as intended.

Resources for Landlords and Businesses

There are numerous resources available for businesses and landlords that are economically impacted by the coronavirus pandemic. Federal Coronavirus Disaster Relief Loans from the U.S. Small Business Administration (SBA) offer relief funds through their Economic Injury Disaster Loan (EIDL) Program (<https://www.benefits.gov/benefit/1504>). Landlords may use these funds to cover shortfalls in rent collection in occupied units and pay down their own obligations. Similarly, businesses can apply for loans up to \$2 million to help pay fixed debts, payroll, accounts and other bills they are unable to pay due to the pandemic. Landlords and businesses are also eligible to receive economic relief from the recently passed Coronavirus Aid, Relief and Economic Security (CARES) Act. Through the CARES Act's Paycheck Protection Program, businesses, including landlords, are eligible for some loan forgiveness if they retain employees and use loan proceeds for payroll costs, payments of interest on mortgage loans incurred prior to February 15, 2020, and payment on utilities for services that began prior to February 15, 2020 (<https://www.sba.gov/>). The SBA Debt Relief Program also offers payment on SBA loans, including principle, interest, and fees, for six months.

Additionally, various financial lenders are providing economic relief to property owners experiencing financial hardship or illness due to COVID-19. The following are examples of lenders offering COVID-19 financial assistance:

- Bank of America – Deferring mortgage payments

- Wells Fargo – Offering mortgage payment forbearances of up to 90 days, and will not initiate foreclosure sales or evictions
- JP Morgan Chase Bank - Offering mortgage payment forbearances of up to 90 days, and will not initiate foreclosure sales or evictions
- Citibank - Offering mortgage payment forbearances of up to 90 days, and will not initiate foreclosure sales or evictions
- Freddie Mac and Fannie Mae – Suspending foreclosures and evictions for at least 60 days, and providing payment forbearance for up to 12 months.

DCBA's Foreclosure Prevention Program is assisting homeowners facing foreclosure and providing them with all available eligible options, and as explained above will expand to support small landlords in the next seven to 14 days. DCBA staff is also monitoring lenders and loan servicers, industry activity, developing educational materials, and tracking inquiries.

Additionally, the County Business and Worker Disaster Help Center has a dedicated help line for small businesses in Los Angeles County regarding COVID-19 financial relief and resources, including technical assistance such as guiding through the process applying for disaster loans. The Help Center also has a website (<https://lacountyhelpcenter.org/>) with relevant information in numerous languages.

Should you have any questions concerning this matter, please contact me, or Dana Pratt, Chief, Housing and Tenant Protections, at (213) 634-5923 or dpratt@dcba.lacounty.gov.

JMN:RC
DP:MR:ph

c: Executive Office, Board of Supervisors
 Chief Executive Office
 County Counsel
 Development Authority
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 Workforce Development, Aging and Community Services